
SUBSTITUTE SENATE BILL 5437

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Pflug, Swecker and Kauffman; by request of Attorney General)

READ FIRST TIME 02/06/07.

1 AN ACT Relating to making adjustments to the recodification of the
2 public records act; amending RCW 42.56.010 and 42.56.030; reenacting
3 and amending RCW 42.56.270, 42.56.270, and 42.56.400; providing an
4 effective date; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 42.56.010 and 2005 c 274 s 101 are each amended to
7 read as follows:

8 The definitions in ((RCW 42.17.020)) this section apply throughout
9 this chapter unless the context clearly requires otherwise. As used in
10 this chapter, the singular shall take the plural and any gender, the
11 other, as the context requires.

12 (1) "Agency" includes all state agencies and all local agencies.
13 "State agency" includes every state office, department, division,
14 bureau, board, commission, or other state agency. "Local agency"
15 includes every county, city, town, municipal corporation, quasi-
16 municipal corporation, or special purpose district, or any office,
17 department, division, bureau, board, commission, or agency thereof, or
18 other local public agency.

1 (2) "Person" includes an individual, partnership, joint venture,
2 public or private corporation, association, federal, state, or local
3 governmental entity or agency however constituted, candidate,
4 committee, political committee, political party, executive committee
5 thereof, or any other organization or group of persons, however
6 organized.

7 (3) "Public record" includes any writing containing information
8 relating to the conduct of government or the performance of any
9 governmental or proprietary function prepared, owned, used, or retained
10 by any state or local agency regardless of physical form or
11 characteristics. For the office of the secretary of the senate and the
12 office of the chief clerk of the house of representatives, public
13 records means legislative records as defined in RCW 40.14.100 and also
14 means the following: All budget and financial records; personnel
15 leave, travel, and payroll records; records of legislative sessions;
16 reports submitted to the legislature; and any other record designated
17 a public record by any official action of the senate or the house of
18 representatives.

19 (4) "State office" means state legislative office or the office of
20 governor, lieutenant governor, secretary of state, attorney general,
21 commissioner of public lands, insurance commissioner, superintendent of
22 public instruction, state auditor, or state treasurer.

23 (5) "Writing" means handwriting, typewriting, printing,
24 photostating, photographing, and every other means of recording any
25 form of communication or representation including, but not limited to,
26 letters, words, pictures, sounds, or symbols, or combination thereof,
27 and all papers, maps, magnetic or paper tapes, photographic films and
28 prints, motion picture, film and video recordings, magnetic or punched
29 cards, discs, drums, diskettes, sound recordings, and other documents
30 including existing data compilations from which information may be
31 obtained or translated. In addition, a writing means any communication
32 where there is the transmission of information by wire, radio, optical
33 cable, electromagnetic, or other similar means including, but not
34 limited to, communication via electronic mail, internet-based
35 communications, pager service, cell phones, and electronic text
36 messaging.

1 **Sec. 2.** RCW 42.56.030 and 2005 c 274 s 283 are each amended to
2 read as follows:

3 The people of this state do not yield their sovereignty to the
4 agencies that serve them. The people, in delegating authority, do not
5 give their public servants the right to decide what is good for the
6 people to know and what is not good for them to know. The people
7 insist on remaining informed so that they may maintain control over the
8 instruments that they have created. This chapter shall be liberally
9 construed and its exemptions narrowly construed to promote this public
10 policy and to assure that the public interest will be fully protected.
11 In the event of conflict between the provisions of this chapter and any
12 other act, the provisions of this chapter shall govern.

13 **Sec. 3.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
14 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c
15 171 s 8 are each reenacted and amended to read as follows:

16 The following financial, commercial, and proprietary information is
17 exempt from disclosure under this chapter:

18 (1) Valuable formulae, designs, drawings, computer source code or
19 object code, and research data obtained by any agency within five years
20 of the request for disclosure when disclosure would produce private
21 gain and public loss;

22 (2) Financial information supplied by or on behalf of a person,
23 firm, or corporation for the purpose of qualifying to submit a bid or
24 proposal for (a) a ferry system construction or repair contract as
25 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
26 or improvement as required by RCW 47.28.070;

27 (3) Financial and commercial information and records supplied by
28 private persons pertaining to export services provided under chapters
29 43.163 and 53.31 RCW, and by persons pertaining to export projects
30 under RCW 43.23.035;

31 (4) Financial and commercial information and records supplied by
32 businesses or individuals during application for loans or program
33 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
34 43.168 RCW, or during application for economic development loans or
35 program services provided by any local agency;

36 (5) Financial information, business plans, examination reports, and

1 any information produced or obtained in evaluating or examining a
2 business and industrial development corporation organized or seeking
3 certification under chapter 31.24 RCW;

4 (6) Financial and commercial information supplied to the state
5 investment board by any person when the information relates to the
6 investment of public trust or retirement funds and when disclosure
7 would result in loss to such funds or in private loss to the providers
8 of this information;

9 (7) Financial and valuable trade information under RCW 51.36.120;

10 (8) Financial, commercial, operations, and technical and research
11 information and data submitted to or obtained by the clean Washington
12 center in applications for, or delivery of, program services under
13 chapter 70.95H RCW;

14 (9) Financial and commercial information requested by the public
15 stadium authority from any person or organization that leases or uses
16 the stadium and exhibition center as defined in RCW 36.102.010;

17 (10)(a) Financial information, including but not limited to account
18 numbers and values, and other identification numbers supplied by or on
19 behalf of a person, firm, corporation, limited liability company,
20 partnership, or other entity related to an application for a horse
21 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
22 license, gambling license, or lottery retail license;

23 (b) Financial or proprietary information supplied to the liquor
24 control board including the amount of beer or wine sold by a domestic
25 winery, brewery, microbrewery, or certificate of approval holder under
26 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
27 wine purchased by a retail licensee in connection with a retail
28 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
29 shipments of beer or wine.

30 (11) Proprietary data, trade secrets, or other information that
31 relates to: (a) A vendor's unique methods of conducting business; (b)
32 data unique to the product or services of the vendor; or (c)
33 determining prices or rates to be charged for services, submitted by
34 any vendor to the department of social and health services for purposes
35 of the development, acquisition, or implementation of state purchased
36 health care as defined in RCW 41.05.011;

37 (12)(a) When supplied to and in the records of the department of
38 community, trade, and economic development:

1 (i) Financial and proprietary information collected from any person
2 and provided to the department of community, trade, and economic
3 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

4 (ii) Financial or proprietary information collected from any person
5 and provided to the department of community, trade, and economic
6 development or the office of the governor in connection with the
7 siting, recruitment, expansion, retention, or relocation of that
8 person's business and until a siting decision is made, identifying
9 information of any person supplying information under this subsection
10 and the locations being considered for siting, relocation, or expansion
11 of a business;

12 (b) When developed by the department of community, trade, and
13 economic development based on information as described in (a)(i) of
14 this subsection, any work product is not exempt from disclosure;

15 (c) For the purposes of this subsection, "siting decision" means
16 the decision to acquire or not to acquire a site;

17 (d) If there is no written contact for a period of sixty days to
18 the department of community, trade, and economic development from a
19 person connected with siting, recruitment, expansion, retention, or
20 relocation of that person's business, information described in (a)(ii)
21 of this subsection will be available to the public under this chapter;

22 (13) Financial and proprietary information submitted to or obtained
23 by the department of ecology or the authority created under chapter
24 70.95N RCW to implement chapter 70.95N RCW;

25 (14) Financial, commercial, operations, and technical and research
26 information and data submitted to or obtained by the life sciences
27 discovery fund authority in applications for, or delivery of, grants
28 under chapter 43.350 RCW, to the extent that such information, if
29 revealed, would reasonably be expected to result in private loss to the
30 providers of this information;

31 (15) Financial and commercial information provided as evidence to
32 the department of licensing as required by RCW 19.112.110 or
33 19.112.120, except information disclosed in aggregate form that does
34 not permit the identification of information related to individual fuel
35 licensees;

36 (16) Any production records, mineral assessments, and trade secrets
37 submitted by a permit holder, mine operator, or landowner to the
38 department of natural resources under RCW 78.44.085; (~~and~~)

1 (17)(a) Farm plans developed by conservation districts, unless
2 permission to release the farm plan is granted by the landowner or
3 operator who requested the plan, or the farm plan is used for the
4 application or issuance of a permit((-));

5 (b) Farm plans developed under chapter 90.48 RCW and not under the
6 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW
7 42.56.610 and 90.64.190; and

8 (18) Information gathered under chapter 19.85 RCW or RCW 34.05.328
9 that can be identified to a particular business.

10 **Sec. 4.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c
11 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each
12 reenacted and amended to read as follows:

13 The following financial, commercial, and proprietary information is
14 exempt from disclosure under this chapter:

15 (1) Valuable formulae, designs, drawings, computer source code or
16 object code, and research data obtained by any agency within five years
17 of the request for disclosure when disclosure would produce private
18 gain and public loss;

19 (2) Financial information supplied by or on behalf of a person,
20 firm, or corporation for the purpose of qualifying to submit a bid or
21 proposal for (a) a ferry system construction or repair contract as
22 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
23 or improvement as required by RCW 47.28.070;

24 (3) Financial and commercial information and records supplied by
25 private persons pertaining to export services provided under chapters
26 43.163 and 53.31 RCW, and by persons pertaining to export projects
27 under RCW 43.23.035;

28 (4) Financial and commercial information and records supplied by
29 businesses or individuals during application for loans or program
30 services provided by chapters 15.110, 43.163, 43.160, 43.330, and
31 43.168 RCW, or during application for economic development loans or
32 program services provided by any local agency;

33 (5) Financial information, business plans, examination reports, and
34 any information produced or obtained in evaluating or examining a
35 business and industrial development corporation organized or seeking
36 certification under chapter 31.24 RCW;

1 (6) Financial and commercial information supplied to the state
2 investment board by any person when the information relates to the
3 investment of public trust or retirement funds and when disclosure
4 would result in loss to such funds or in private loss to the providers
5 of this information;

6 (7) Financial and valuable trade information under RCW 51.36.120;

7 (8) Financial, commercial, operations, and technical and research
8 information and data submitted to or obtained by the clean Washington
9 center in applications for, or delivery of, program services under
10 chapter 70.95H RCW;

11 (9) Financial and commercial information requested by the public
12 stadium authority from any person or organization that leases or uses
13 the stadium and exhibition center as defined in RCW 36.102.010;

14 (10) Financial information, including but not limited to account
15 numbers and values, and other identification numbers supplied by or on
16 behalf of a person, firm, corporation, limited liability company,
17 partnership, or other entity related to an application for a horse
18 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
19 license, gambling license, or lottery retail license;

20 (11) Proprietary data, trade secrets, or other information that
21 relates to: (a) A vendor's unique methods of conducting business; (b)
22 data unique to the product or services of the vendor; or (c)
23 determining prices or rates to be charged for services, submitted by
24 any vendor to the department of social and health services for purposes
25 of the development, acquisition, or implementation of state purchased
26 health care as defined in RCW 41.05.011;

27 (12)(a) When supplied to and in the records of the department of
28 community, trade, and economic development:

29 (i) Financial and proprietary information collected from any person
30 and provided to the department of community, trade, and economic
31 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

32 (ii) Financial or proprietary information collected from any person
33 and provided to the department of community, trade, and economic
34 development or the office of the governor in connection with the
35 siting, recruitment, expansion, retention, or relocation of that
36 person's business and until a siting decision is made, identifying
37 information of any person supplying information under this subsection

1 and the locations being considered for siting, relocation, or expansion
2 of a business;

3 (b) When developed by the department of community, trade, and
4 economic development based on information as described in (a)(i) of
5 this subsection, any work product is not exempt from disclosure;

6 (c) For the purposes of this subsection, "siting decision" means
7 the decision to acquire or not to acquire a site;

8 (d) If there is no written contact for a period of sixty days to
9 the department of community, trade, and economic development from a
10 person connected with siting, recruitment, expansion, retention, or
11 relocation of that person's business, information described in (a)(ii)
12 of this subsection will be available to the public under this chapter;

13 (13) Financial and proprietary information submitted to or obtained
14 by the department of ecology or the authority created under chapter
15 70.95N RCW to implement chapter 70.95N RCW;

16 (14) Financial, commercial, operations, and technical and research
17 information and data submitted to or obtained by the life sciences
18 discovery fund authority in applications for, or delivery of, grants
19 under chapter 43.350 RCW, to the extent that such information, if
20 revealed, would reasonably be expected to result in private loss to the
21 providers of this information;

22 (15) Financial and commercial information provided as evidence to
23 the department of licensing as required by RCW 19.112.110 or
24 19.112.120, except information disclosed in aggregate form that does
25 not permit the identification of information related to individual fuel
26 licensees;

27 (16) Any production records, mineral assessments, and trade secrets
28 submitted by a permit holder, mine operator, or landowner to the
29 department of natural resources under RCW 78.44.085; ~~((and))~~

30 (17)(a) Farm plans developed by conservation districts, unless
31 permission to release the farm plan is granted by the landowner or
32 operator who requested the plan, or the farm plan is used for the
33 application or issuance of a permit~~((-))~~;

34 (b) Farm plans developed under chapter 90.48 RCW and not under the
35 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
36 RCW 42.56.610 and 90.64.190; and

37 (18) Information gathered under chapter 19.85 RCW or RCW 34.05.328
38 that can be identified to a particular business.

1 **Sec. 5.** RCW 42.56.400 and 2006 c 284 s 17 and 2006 c 8 s 210 are
2 each reenacted and amended to read as follows:

3 The following information relating to insurance and financial
4 institutions is exempt from disclosure under this chapter:

5 (1) Records maintained by the board of industrial insurance appeals
6 that are related to appeals of crime victims' compensation claims filed
7 with the board under RCW 7.68.110;

8 (2) Information obtained and exempted or withheld from public
9 inspection by the health care authority under RCW 41.05.026, whether
10 retained by the authority, transferred to another state purchased
11 health care program by the authority, or transferred by the authority
12 to a technical review committee created to facilitate the development,
13 acquisition, or implementation of state purchased health care under
14 chapter 41.05 RCW;

15 (3) The names and individual identification data of all viators
16 regulated by the insurance commissioner under chapter 48.102 RCW;

17 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

18 (5) Information provided under RCW 48.05.510 through 48.05.535,
19 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
20 through 48.46.625;

21 ~~((Information gathered under chapter 19.85 RCW or RCW 34.05.328
22 that can be identified to a particular business;~~

23 ~~(7))~~ Examination reports and information obtained by the
24 department of financial institutions from banks under RCW 30.04.075,
25 from savings banks under RCW 32.04.220, from savings and loan
26 associations under RCW 33.04.110, from credit unions under RCW
27 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and
28 from securities brokers and investment advisers under RCW 21.20.100,
29 all of which is confidential and privileged information;

30 ~~((8))~~ (7) Information provided to the insurance commissioner
31 under RCW 48.110.040(3);

32 ~~((9))~~ (8) Documents, materials, or information obtained by the
33 insurance commissioner under RCW 48.02.065, all of which are
34 confidential and privileged;

35 ~~((10))~~ (9) Confidential proprietary and trade secret information
36 provided to the commissioner under RCW 48.31C.020 through 48.31C.050
37 and 48.31C.070;

1 (~~(11)~~) (10) Data filed under RCW 48.140.020, 48.140.030,
2 48.140.050, and 7.70.140 that, alone or in combination with any other
3 data, may reveal the identity of a claimant, health care provider,
4 health care facility, insuring entity, or self-insurer involved in a
5 particular claim or a collection of claims. For the purposes of this
6 subsection:

- 7 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
- 8 (b) "Health care facility" has the same meaning as in RCW
9 48.140.010(6).
- 10 (c) "Health care provider" has the same meaning as in RCW
11 48.140.010(7).
- 12 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
- 13 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
14 and

15 (~~(12)~~) (11) Documents, materials, or information obtained by the
16 insurance commissioner under RCW 48.135.060.

17 NEW SECTION. **Sec. 6.** Section 3 of this act expires June 30, 2008.

18 NEW SECTION. **Sec. 7.** Section 4 of this act takes effect June 30,
19 2008.

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